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members instead of one. When the Advisers Act was re-enacted in 1948, the number of nominees of the Maharaja to the Syndicate was reduced from two to one. The Senate of the Andhra University has again unanimously recommended to restore the number to two in fairness to the Maharaja who has been and continues to be the biggest donor of the University. The Government think that there is much force in the unanimous recommendation of the Senate and have brought forward this Bill to restore the number of the Maharaja's nominees to the Syndicate to two." 11-45 a.m.

MR. CHAIRMAN :—" The question is—

'That the Andhra University (Amendment) Bill, 1950 (L.A. Bill No. 16 of 1950), as passed by the Assembly, be taken into consideration'."

The motion was carried.

Clauses 2 and 1 and the preamble were put and carried.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'That the Bill be passed into law'."

MR. CHAIRMAN :—" The questions is—

'That the Andhra University (Amendment) Bill, 1950 (L.A. Bill No. 16 of 1950), as passed by the Assembly, be passed into law'."

The motion was carried.

(4) THE INDIAN CRIMINAL LAW (MADRAS) AMENDMENT BILL[a], 1950 (L.A. BILL NO. 17 OF 1950).

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'That the Indian Criminal Law (Madras) Amendment Bill, 1950 (L.A. Bill No. 17 of 1950), as passed by the Assembly, be taken into consideration.'

" The Criminal Law Amendment Act was a much-hated Act during the time of the British regime. It was very sparingly used subsequent to the attainment of independence. Certain circumstances in the country necessitated the use of the Act. Hon. Members know that the Communist Party and the various organizations which owed allegiance to it were banned under the Act. One of the arrested persons moved in the Supreme Court that certain sections of the Criminal Law Amendment Act were *ultra vires* of the Fundamental Rights guaranteed in the Constitution of India. The Supreme Court did not give any decision, as the question raised there was disposed of on a technical ground. We examined whether any sections of the Act contravened or were inconsistent with the Constitution. Apart from the question whether they were inconsistent with the Constitution or not, the Government themselves felt it necessary to liberalize certain sections in the interests of natural justice. With that idea, we

[a] Printed as Appendix IV on page 160 infra.

have proposed amendments to sections 15 and 16 of the Criminal Law Amendment Act. Under section 15 as it stands, the Government can declare an association to be unlawful on the basis of their mere opinion that it is indulging in subversive activities without mentioning the grounds for the declaration and the association has no right to question the order of the Government. The amendments that I propose are that the declaration of an association to be unlawful should be on specific grounds and those grounds must be specified in the order. The grounds on which an association could be declared unlawful are mentioned in Article 19 of the Constitution of India. The amendment to section 16 gives an opportunity to any member or other person interested in a notified association to make a representation against the issue of the notification. The case shall be reviewed by an Advisory Board consisting of three persons who are, or have been, or are qualified to be appointed as Judges of the High Court. The Advisory Board is entitled to call for any information on the matter from the Government and its decision shall be binding on the Government. These are the two amendments proposed. The other amendments are consequential. These amendments, in the words of a Member of the other House, make the provisions more humane than what they are now.

" The validity of certain sections of the Criminal Law Amendment Act has been questioned and the matter is pending before the Supreme Court. We wanted to make amendments so that any ambiguity or doubt about the matter may be settled. That is the object of the amendments."

MR. CHAIRMAN :—" The motion is—

' That the Indian Criminal Law (Madras) Amendment Bill, 1950 (L.A. Bill No. 17 of 1950), as pased by the Assembly, be taken into consideration '."

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I would like to have some information from the Hon. Minister for Law. In regard to the notification of an association as unlawful, it is proposed to submit the case to an advisory board that is to be created. But if a notification is issued in respect of any place, the aggrieved person is asked to go to a court. I cannot understand why this distinction is made between an association and a place.

" The proposed clause 16 (2) says—

' Nothing in sub-section (1) shall require the State Government to disclose any facts which it considers to be against the public interest.'

At the same time clause 16 (1) says that the notification shall specify the ground on which it is issued. How can the ground be framed unless facts are put forward to show the circumstances under the notification had to be issued? The circumstances which necessitated the Government to notify an association or place should be clearly given. Otherwise it is unfair either for the advisory body or for the court to decide whether the notification is correct or not.

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I do not know how the Hon. Minister for Law proposes to distinguish between grounds and facts. To suppress facts which lead to the grounds specified is not fair. I do not know how the grounds can be framed without facts to support them."

THE HON. SRI K. MADHAVA MENON :—" The High Court judgment makes a distinction."

* SRI R. SURYANARAYANA RAO :—" I think the facts should be placed in fairness to the notified association or place so that the body entrusted with the task of giving a decision may be enabled to come to a proper judgment.

" While giving a privilege, the Government grudge to allow the person affected by a notification to appear before the advisory board either in person or through a lawyer under clause 16-A (5). What is the object in withholding this elementary privilege? It looks like giving a privilege with one hand and taking it away with the other. I do not know why we should fight shy of lawyers or why we should fight shy of the aggrieved party himself appearing before the advisory body and making representation. I do not think the Bill is so liberal as is claimed. I think it has been brought forward just to get over a possibility of the decision of the Supreme Court. This is not at all a generous gesture towards the notified bodies. I am not speaking in favour of unlawful associations. If there are unlawful associations, let them be declared unlawful. But let them be given an opportunity to say that they are not engaged in unlawful activities. This is possible only if the aggrieved person is allowed to appear and plead before the body which reviews the case either personally or through a lawyer.

" It is not quite clear whether the Government are going to submit to the advisory board all notifications including those in respect of which there is no representation and obtain its decision. If an association is declared unlawful, it is just possible that its members may go underground and they cannot make any representation at all. Even in those cases, will the Government be generous enough to place the notifications before the advisory board? "

THE HON. SRI K. MADHAVA MENON :—" They are bound to under clause 16-A."

SRI R. SURYANARAYANA RAO :—" It looks like that. Another point on which I would like to ask for information from the Government is this. When an association is declared unlawuful, all its members become members of an unlawful association. They are liable to arrest unless they declare that they do not belong to the association. Will they be at liberty to make representations? Is it not a fact that during the War, when the Congress was declared an unlawful body, every member of the Congress was liable to arrest at any time? Where is the occasion or opportunity for a member of an unlawful association to make representation, as he would not like to be apprehended by the police? What I am pointing out is that the Government have

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introduced this Bill to get over some legal difficulty and not because they want to give an opportunity for defence to a notified associtaion or place.''

MR. CHAIRMAN :—" What is the hon. Member's point? "

* SRI R. SURYANARAYANA RAO :—" As soon as an association is declared unlawful, every member of it will go underground. If he is out, he is likely to be apprehended by the Police.

12 noon " Sir, an association, when once it has been declared unlawful, ceases to function and its members are either arrested and taken into custody or they go underground and very often they go underground. Then there are no members of the association at all, because, they would be in jails or would have gone underground. How could they make their representations before the advisory boards when they are underground? Under Section 16-A (3) the advisory board will consider all the materials placed before them and call for any information from the State Government, before submitting their report to the Government. The State Government will only place the grounds on which they have declared that association as unlawful and not place the facts before them."

MR. CHAIRMAN :—" The advisory board can call for any further information from the Government. Section 16-A (3) says—

'The advisory board shall, after considering the materials placed before it, and if necessary, after calling for such further information as it may deem fit from the State Government or from any office-bearer or member of the association concerned or any other person, submit its report to the State Government.'

Therefore the advisory board can call for any information they want from the Government. What is the point of the hon. Member? Does he want that there should be a right of appeal to the party against the decision of the advisory board? "

SRI R. SURYANARAYANA RAO :—" What I am saying is, that the Government are trying to get over legal difficulties by providing an advisory board, and there too the Government will only place the grounds on which such a declaration was made and not the facts on which they have come to that decision. There is, as you know, Sir, vast difference between the term 'ground' and 'facts'.

" Now, Sir, if you read section 16 (2) you will see that the State Government are not obliged to disclose any facts. It states—

'Nothing in sub-section (1) shall require the State Government to disclose any facts which it considers to be against the public interest to disclose.'

" Again, Sir, the proceedings of the advisory board will be held only *in camera* and they are not subject to scrutiny in a regular court of law. Therefore, I submit the Government are not giving any special right or privilege to the person affected, whereas, in the other section, the Government have provided for the party to take the matter to a court of law, if the place had been notified as being used for the purposes of an unlawful association."

MR. CHAIRMAN :—" The hon. Member's point seems to be that the members of the association should be enabled to go before

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a court of law, and the Government should place all the facts before the court, so as to enable the court to decide whether the Government were justified in declaring the association unlawful. Is it not?"

SRI R. SURYANARAYANA RAO :—" Yes, Sir."

THE HON. SRI K. MADHAVA MENON :—" Mr. Chairman, I am sorry, Sir, I did not explain the provisions of the Bill more fully even in my opening speech introducing the Bill in this House, because identically same points were raised by some of the members in the other House and I took it for granted that the replies which I had given to them there would have satisfied hon. Members of this House also. Sir, in the case of an association, we have clearly specified in clause 2 of this Bill, which is an amendment to Section 15 of the Criminal Law Amendment Act, what the ingredients are that go to make up an unlawful association. According to this section, an unlawful association means—

(a) an association which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts; or

(b) which has been declared by the State Government by notification to be unlawful on the ground that such association—

(i) constitutes a danger to the public peace, or

(ii) has interfered or interferes with the maintenance of public order or has interference for its object, or

(iii) has interfered or interferes with the administration of law or has such interference for its object.

Here, there is no question of properties involved. The question is, that if an association comes within any of the categories of offences, it will be declared unlawful.

" But section 17-A of this Act deals with places which are used by such associations for unlawful activities. In such cases, the question of property is involved. An unlawful association may have its own buildings and may have funds also. It is here that we have provided for any dispute being taken before a court of law."

MR. CHAIRMAN :—" It may be that the place may be owned by a different person, who may be unconnected with the unlawful association. Is he to appear before the court?"

THE HON. SRI K. MADHAVA MENON :—" It may be, Sir, that he has to go before a court in case of dispute. There may be civil disputes over the rights to that property, and that is why, Sir, provision has been made in clause 4 of this Bill for taking such disputes to the civil court. That is my explanation, Sir, so far as the difference between the place of an association and the members of the association is concerned. I am not sure whether my hon. Friend Mr. Suryanarayana Rao is satisfied with this explanation."

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MR. CHAIRMAN :—" In clause 4, which deals with the place of an unlawful association, I think it is not even the association, but the real owner of the property, who may not be a member of that association at all, who will have to go before the court, is it not? "

THE HON. SRI K. MADHAVA MENON :—" That is the position, Sir, as I have already stated. Sometimes the place might belong to the association, but might have been leased out. Various points of dispute might arise over the question of place or property.

" Then again, Sir, my hon. Friend Mr. Suryanarayana Rao wanted to know the difference between ' grounds ' and ' facts ' which are to be placed before the advisory board by the Government. He asked, why should the grounds alone be placed before the advisory board and not the facts leading to those grounds. Let me just give an example, Sir, showing the difference between these two. Suppose an association issues a circular to its members as to how to carry out an act of sabotage; suppose it gives directions how to pull out the railway lines, in order to derail a train at a particular place; or suppose it gives instructions to its members how to manufacture a country bomb. These detailed directions and instructions are facts and these cannot be revealed to the public or placed before the advisory board. Only the ground on which it is declared unlawful, namely, that it has issued a circular instructing its members to indulge in acts of sabotage in order to paralyse the railway administration, will be given to the association or office-bearer. Suppose, in this case, we give the entire circular with grounds, then it will be giving out the information to the public and it would be a source of public danger and people who do not know how to manufacture bombs or commit acts of sabotage, will learn to do such things. That is why we have said that the grounds based on such facts alone should be given. Sir, we have come across many instances like these, where circulars have been issued by Communist leaders to their friends as to the particular method of doing things. That is why we have made this discrimination between grounds and facts leading to such grounds. Sometimes, such facts may not be dangerous to public peace if placed before the board. In such cases, we have no objection to do so. At the same time, I may point out that under sub-section 16-A (3) it is open to the Advisory Board to ask us to give them any further facts on the basis of which, they have to submit their report to the State Government. That is why, we have said in sub-section (5) that ' Nothing in this section shall entitle any person to attend in person or to appear by any legal representative in any matter connected with the reference to the advisory board, and the proceedings of the advisory board and its report, excepting that part thereof in which its opinion or that of the majority of its members is specified, shall be confidential.' There is no purpose in allowing lawyers to appear before the advisory board on behalf of the unlawful associations. Here we are not dealing with individuals, but with associations. As I said, the advisory board has got the right to call for further information if necessary. But in the case of

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individuals we have copied exactly the provision of the Preventive Detention Act of the Government of India which was passed in February 1950. Section 20 of that Act deals with the procedure of advisory boards and section 23 (3) says :—

'Nothing in this section shall entitle any person against whom an order has been made to attend in person or to appear by any legal representative in any matter connected with reference to the advisory board and its report, except that part of the report on which the opinion of the advisory board is specified shall be confidential.'

In this Act, we have made the decision of the advisory board binding on the Government. I submit, Sir, that we have been generous enough in dealing with these unlawful associations, but if we want to be more generous, we should have no Criminal Law Amendment Act at all on the statute book. It is not our intention to be so generous as to do away with that Act. Sir, you may remember that even when Mahatma Gandhi was assasinated, and when subversive activities of certain communal parties were at their highest, we did not ban the Communist Party or any communal organization, but that it was only last year that we banned that party because of certain particular reasons. But, I must, however, admit, Sir, that this Act is somewhat drastic. But we have made it less drastic by these amendments. One hon. Member mentioned in the other House that we have humanized it by 80 per cent. But, as far as this Government is concerned, we have made it 100 per cent human and that is all that we can do under the circumstances.

"Sir, my hon. Friend, Mr. Suryanarayana Rao, asked me, 'Suppose you declare an association to be an unlawful one, then, the members belonging to that association would either go underground or would be arrested and put in jails. How would the persons underground be able to make their representation before the advisory board.' Sir, we are not concerned with the persons who had gone underground. But so far as the arrested persons are concerned, they are exactly on the same footing as any accused person in a criminal case. Suppose a man had committed theft. The case goes before the magistrate and he is given a chance to put forth his plea. Similarly, the affected body will be asked to put forth their plea before the advisory board. This is a cognizable offence and they will have every opportunity to have their say before the board. I do not see any particular difficulty in this matter at all."

MR. CHAIRMAN :—"The question is—

'That the Bill further to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Madras (L.A. Bill No. 17 of 1950), as passed by the Legislative Assembly, be taken into consideration'."

The motion was carried.

The Bill was taken up, clause by clause.

Clauses 2 to 6 were put separately and carried.

Clause 1 was put and carried.

The preamble was put and carried.

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THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' *That the Bill be passed into law* '."

MR. CHAIRMAN :—" The question is—

' That the Bill further to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Madras, be passed into law '."

The motion was carried and the Bill was passed into law.

(5) THE MADRAS BUILDINGS (LEASE AND RENT CONTROL) SECOND AMENDMENT BILL, 1950 (L.A. BILL NO. 18 OF 1950).

THE HON. SRI N. SANJEEVA REDDI :—" Mr. Chairman, Sir, I beg to move—

' *That this House concurs in setting up a Joint Select Committee of the two Houses consisting of nine Members (six Members from the Assembly and three Members from the Council) to consider the Madras Buildings (Lease and Rent Control) Second Amendment Bill, 1950, and that the following members of this House be nominated to the said Joint Select Committee :—*

(1) The Hon. Sri K. Madhava Menon.

(2) Sri H. M. Jagannatham.

(3) Sri P. R. K. Sarma.'

" Sir, this Act has been in force for the last few years and we have been finding some practical difficulties in administering it and therefore we wanted to amend the Act and a Select Committee was constituted to go into the question and they suggested certain changes. But in the meanwhile, the High Court and the Federal Court judgments came invalidating the whole Act. Therefore the changes proposed by the Select Committee also became invalid and the whole work was rendered infructuous. Then we had to enact an ordinance in order to keep the Act in force. Now we feel some difficulties in administering the Act and so we have brought this Amending Bill and we have proposed to constitute a Select Committee of both Houses to go through it and suggest any changes, if necessary.

12-15 p.m. " To remedy those defects, we are now setting up a small Joint Select Committee so that we may go through all the amendments proposed previously, and also make changes wherever necessary. I have proposed the names of six Members from the Assembly and three Members from the Council. Sir, I move."

MR. CHAIRMAN :—" The question is—

' That this House concurs in setting up a Joint Select Committee of the two Houses consisting of nine Members (six Members from the Assembly and three Members from the Council) to consider the Madras Buildings (Lease and Rent Control) Second Amendment Bill, 1950, and that the following Members of this House be nominated to the said Joint Select Committee :—

(1) The Hon. Sri K. Madhava Menon.

(2) Sri H. M. Jagannatham.

(3) Sri P. R. K. Sarma.' "